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March 26, 2004

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## EX PARTE NOTICE

### *Electronic Filing*

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Room TW-B204A  
Washington, D.C. 20554

Re: ALLTEL Communications Inc., Petition for Consent to Redefine Rural  
Telephone Company Service Areas in Wisconsin  
CC Docket No. 96-45, DA No. 04-565

Dear Ms. Dortch:

Pursuant to the requirements of *Virginia Cellular*,<sup>1</sup> ALLTEL Communications, Inc. ("ALLTEL") supplements the record in the above-referenced proceeding in support of its request for Commission approval of the service area redefinition decision of the Wisconsin Public Service Commission ("WPSC"). In designating Virginia Cellular, LLC an eligible telecommunications carrier ("ETC") in Virginia, this Commission elaborated on its rural service area redefinition criteria by relying on population density data that was submitted to demonstrate a lack of cream skimming opportunities.<sup>2</sup> *Virginia Cellular* also endorsed state commission ETC and service area redefinition judgments.<sup>3</sup> Attached to this supplement are a population density chart and maps supporting a similar showing for the Wisconsin rural incumbent local exchange carrier ("ILEC") study areas partially served by ALLTEL's cellular service. As discussed

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<sup>1</sup> *Federal-State Joint Board on Universal Service; Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier In the Commonwealth of Virginia*, FCC 03-338, CC Docket No. 96-45 (Jan. 22, 2004) ("*Virginia Cellular*").

<sup>2</sup> *Id.* ¶ 42.

<sup>3</sup> *Id.* ¶ 45.

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below, this data demonstrates that, in the partially served rural ILEC study areas, the wire centers that ALLTEL serves have a lower average population density than the wire centers it does not serve. The Commission therefore should consent to the WPSC's service area redefinition decision without further delay.

## **I. Background**

The WPSC, on September 30, 2003, granted an ALLTEL application for competitive ETC status as a cellular telecommunications service provider in Wisconsin as in the public interest where it serves an entire rural or non-rural study area ("*WPSC Decision*").<sup>4</sup> The WPSC also conditionally granted ALLTEL ETC status for those portions of rural study areas that it partially serves, subject to this Commission's approval of the use of partial rural study areas for ETC purposes.<sup>5</sup> The WPSC based its decision to grant ETC status for portions of rural study areas on its finding that "concerns about 'cherry picking' and 'cream skimming' are largely moot" because of ILECs' options to disaggregate costs and thereby target universal support funding to high-cost areas.<sup>6</sup> ALLTEL filed its petition for Commission approval of the WPSC's service area redefinition decision on November 21, 2003 ("*Petition*").<sup>7</sup>

## **II. Virginia Cellular's Application Of The Redefinition Criteria**

In redefining certain rural ILEC service areas at the wire center level, *Virginia Cellular* further elaborated upon the required showing, originally highlighted in the Joint Board's 1996 *Recommended Decision*, that rural ILEC service area redefinition not result in opportunities for cream skimming.<sup>8</sup> The Commission made that finding in *Virginia Cellular* based on the relative "population densities of the wire centers Virginia

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<sup>4</sup> *Application of ALLTEL Communications, Inc., ALLTEL Wireless of Wisconsin RSA #1, LLC and ALLTEL Wireless of Wisconsin RSA #7, LLC for Designation as an Eligible Telecommunications Carrier in Wisconsin*, Docket No. 7131-T1-101 (Wis. PSC Sept. 30, 2003) ("*WPSC Decision*").

<sup>5</sup> *Id.* at 10.

<sup>6</sup> *Id.* at 11.

<sup>7</sup> See *Petition of ALLTEL Communications, Inc. For Consent to Redefine the Service Areas of Rural Telephone Companies in the State of Wisconsin, Federal-State Joint Board on Universal Service; Petition of ALLTEL Communications, Inc. for Consent to Redefine the Service Areas of Rural Telephone Companies in the State of Wisconsin*, CC Docket No. 96-45 (filed Nov. 21, 2003) ("*Petition*"). All filings made by ALLTEL in this proceeding will hereinafter be cited in an abbreviated manner.

<sup>8</sup> *Federal-State Joint Board on Universal Service, Recommended Decision*, 12 FCC Rcd 87, 179-80 (Jt. Bd. 1996) ("*1996 Recommended Decision*").

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Cellular can and cannot serve” in the partially served study areas.<sup>9</sup> The Commission’s reference to relative population densities relied upon an analysis that it had provided in determining whether to grant ETC status to Virginia Cellular.<sup>10</sup> It noted that a low population density typically indicates a high-cost area and vice-versa and found that for the rural service areas for which ETC status was granted, Virginia Cellular “will not be serving only low-cost areas to the exclusion of high-cost areas.”<sup>11</sup> *Virginia Cellular* accordingly granted the requested redefinition, subject to the agreement of the Virginia State Corporation Commission (“Virginia Commission”). In submitting its order to the Virginia Commission, this Commission found the states to be “uniquely qualified” to review redefinition requests based upon their familiarity with rural service areas.<sup>12</sup>

### **III. The Application Of *Virginia Cellular* Confirms The Absence Of Cream Skimming Opportunities**

The WPSC found that redefining rural ILEC service areas at the exchange, or wire center, level is in the public interest, based on its familiarity with their service areas and its finding that the option to disaggregate largely moots cream skimming concerns.<sup>13</sup> ALLTEL, pursuant to *Virginia Cellular*, further supports this finding with additional evidence that the redefinition of rural Wisconsin ILEC service areas will not encourage cream skimming. The attached population density chart and maps demonstrate that, of the partially served rural Wisconsin study areas, the average population density of the wire centers served by ALLTEL is *lower* than the average density of the wire centers it does not serve.

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<sup>9</sup> *Virginia Cellular* ¶ 42.

<sup>10</sup> *Id.* & n.128.

<sup>11</sup> *Id.* ¶ 34.

<sup>12</sup> *Id.* ¶ 45. The 1996 *Recommended Decision* expressed two other concerns regarding the redefinition of rural ILEC service areas, in addition to minimizing cream skimming: (1) recognizing that the Telecommunications Act of 1996 places rural ILECs on a different competitive footing from other LECs; and (2) recognizing the administrative burden of requiring rural ILECs to calculate costs at something other than a study area level. *Id.* at 180. In *Virginia Cellular*, the Commission applied those criteria by finding that redefinition would not harm rural ILECs, because receipt of high-cost support by Virginia Cellular will not affect the high-cost support received by the rural ILECs, and would not impose additional administrative burdens, because service area redefinition will not require the rural ILECs to determine their costs on a basis other than the study area level. *Id.* at ¶¶ 43-44. ALLTEL demonstrated compliance with those criteria in its Petition, and none of the oppositions challenged the factual bases for ALLTEL’s showings as to those criteria. See Petition at 10-12. See also *WPSC Decision* at 15.

<sup>13</sup> *WPSC Decision* at 11.

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Attached as Exhibit A is a list of all of the wire centers in the partially served rural ILEC study areas in Wisconsin within the coverage of ALLTEL's wireless service license, showing the population density, in households per square mile, for each wire center and indicating whether ALLTEL serves the wire center. As indicated at the end of Exhibit A, for the partially served study areas, the average population density of the wire centers that ALLTEL serves is 11 households per square mile, while the average density of the wire centers it does not serve is 17 households per square mile. Accordingly, ALLTEL is not serving the higher-density, lower-cost wire centers to the exclusion of the lower-density, higher-cost wire centers in the partially served study areas, and the redefinition of these service areas by wire center therefore will not undercut the ILECs' abilities to serve their entire study areas. If anything, ALLTEL disproportionately serves the lower-density, higher-cost portions of the partially served study areas.

A closer examination of Exhibit A underscores that conclusion. For example, ALLTEL serves 70 of the 108 wire centers in the partially served study areas with the lowest population density -- 10 or fewer households per square mile -- and serves 109 of the 166 wire centers with a population density of 20 or fewer households per square mile. Moreover, ALLTEL's absence from the higher-density wire centers is even more striking. It serves only three of the 17 wire centers in the partially served study areas with a density of 50 or more households per square mile and none of the five wire centers in the partially served study areas with a density of 100 or more households per square mile. It is notable in this regard that the average density of all rural Wisconsin wire centers served by ALLTEL -- in both partially served and entirely served study areas -- is only 14 households per square mile.

The relative densities of the served and unserved wire centers in the partially served study areas is illustrated by Exhibit B, a map of Wisconsin showing the wireless Metropolitan Statistical Area ("MSA") and Rural Service Area ("RSA") boundaries for the entire state and the boundaries of the wire centers in rural ILEC study areas partially served by ALLTEL. The wire centers in those study areas that are served by ALLTEL are shown in thin black boundaries, and the wire centers not served or partially served by ALLTEL are shown in heavier dark blue boundaries.<sup>14</sup> It is apparent that the served wire centers are in areas no more densely populated, and in many cases, less populated areas, than the wire centers that ALLTEL does not serve.

The sparsely populated nature of ALLTEL's wireless service area also is illustrated by Exhibit C, a map that is similar to Exhibit B, except that it includes all of

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<sup>14</sup> ALLTEL did not seek ETC status for any partially served wire centers.

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the rural wire centers served by ALLTEL in Wisconsin, both in study areas partially served and in study areas entirely served by ALLTEL. It is apparent that the served wire centers are generally in areas no more densely populated, and in many cases, less populated areas, than the wire centers that ALLTEL does not serve. The population density data displayed in Exhibits A through C thus confirms the absence of opportunities for cream skimming resulting from the requested service area redefinition.

## IV. Conclusion

An examination of relative population density data of the type analyzed in *Virginia Cellular* confirms that the redefinition of certain rural Wisconsin ILEC service areas sought by ALLTEL does not raise any of the concerns outlined in the *1996 Recommended Decision*. The requested redefinition, in conjunction with the ETC designation granted in the *WPSC Decision*, will not undercut the affected ILECs' abilities to serve their entire study areas or harm them in any other way. The WPSC is as "uniquely qualified to examine" ALLTEL's redefinition proposal as the Virginia Commission was to examine Virginia Cellular's requested redefinition, and the WPSC's redefinition decision accordingly should be approved. Now that the Joint Board's recent *Recommended Decision* has concluded that no changes in the Commission's redefinition rules or procedures are necessary, there is no justification for any further delay in resolving the issues raised by the Petition.<sup>15</sup> The Commission therefore should immediately consent to the WPSC's redefinition decision.

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<sup>15</sup> *Federal-State Joint Board on Universal Service*, Recommended Decision, CC Docket No. 96-45, FCC 04J-1 (Feb. 27, 2004) ("*Recommended Decision*") ¶ 55. The opposing carriers had argued that any action on the Petition be postponed until the Joint Board acted. See ALLTEL Reply Comments at 4-9 (filed Jan. 5, 2004).

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In accordance with Section 1.1206 of the Commission's rules, this letter and attachments are filed with your office for inclusion in the public record of the above referenced proceeding. If you have any questions regarding this *ex parte* notice, please contact the undersigned.

Yours truly,

/s/ Cheryl A. Tritt

Cheryl A. Tritt  
Counsel for ALLTEL Communications, Inc.

cc: William Maher  
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